



**MINUTES OF THE GILA COUNTY  
BOARD OF ADJUSTMENT**

**Thursday, October 19, 2017**

GILA COUNTY BOARD OF SUPERVISORS CONFERENCE ROOM  
608 E. Highway 260, Payson, AZ  
9:00 A.M.

**REGULAR MEETING**

1. The meeting was called to order at 9:05 A.M. by Chairman Don Ascoli.
2. Pledge of Allegiance was led by Chairman Don Ascoli.
3. Roll Call: Therese Berumen did the roll call; Chairman Don Ascoli (in Payson), Terry Otts (in Globe), and Bill Marshall (in Globe) are all present. Mickie Nye and Mary Lou Myers are absent. A quorum is present.

Community Development Staff Members Present: Scott Buzan-Director and Therese Berumen-Administrative Assistant.

4. Review and Approval of the Board of Adjustment Minutes on February 16, 2017. Chairman Don Ascoli asked if there were any changes needed to the minutes. No changes were suggested. Bill Marshall motioned that the minutes be approved as is and Terry Otts seconded the motion. The motion was unanimously approved.
5. **Director/Planner Communication:** At any time during this meeting of the Board of Adjustment, Director Scott Buzan and/or Planner Robert Gould of Community Development may present a brief summary of current events. No action may be taken.

Scott Buzan presented a few items to the Board, to keep them updated of what is happening in the Community Development Division. First, Scott Buzan was promoted to Director, in July of 2017. Secondly, Robert Gould has returned to our department on a part time basis, as our planner. Thirdly, a new building official, Michael Coldiron, was hired in September. Lastly, we are looking into revising the hearing officer rules of procedure.

**Appeal:**

6. **AV-17-10 Ben Davis:** A request to obtain a 3.5 ft. North side setback and a 13 ft. East rear setback to erect a 20 ft. by 34 ft. covered deck with a 6 ft. by 20 ft. laundry room was denied by Community Development and Mr. Davis is appealing that decision.

Scott Buzan presented the staff report overview. During my review of the Gila County Ordinance, Section 101.3 (A)(1) and also from my site visit to the site in Tonto Village, I denied the request. The reason I denied the request is simply because the stipulations listed in the ordinance, for an Administrative Variance approval, did not meet this particular application. Per Mr. Davis' application, he requested the side property line setback because he wanted the patio cover to follow the roof line of the existing structure, which would make it approximately 3.5 feet from the

property line. The existing structure was built, I believe, back in the 1960's, which was before any zoning regulations were in place. Also, to go further with my reasoning behind my denial, the septic tank is right next to the residence and there is no note of where and if there is a leach field. It appeared to me, that there is more land on the property that could be built upon verses having to encroach into the setback. There didn't appear to be any hardship brought on by the septic tank location or any other structures on the property. Mr. Davis also stated on his application, that the property to the East is owned by him and his brother. That wasn't taken into consideration for this application, because the property may not always be owned by Mr. Davis and his brother. We also allow, in our zoning ordinance, that you can encroach up to 10 feet into a rear property line with an attached covered structure, as long as it is never enclosed. This doesn't apply to Mr. Davis' application because he has a 6 foot section that contains the hot water heater, that has already been enclosed. Mr. Davis could modify the deck by moving the water heater storage to another location, allowing him to encroach up to 10 feet into the rear property line, as long as it isn't closer than 8 feet to the property line. This isn't an option for the side property line. Only the rear property line. Also, if you look at the google map aerial that is included in the agenda packet, you will see that the property to the North of Mr. Davis has an accessory structure that is within a foot maybe of the property line between theirs and Mr. Davis' property, where Mr. Davis would like to put the proposed deck. This structure was not approved by us and after talking to the property owners, they stated that it has been there for about 3 years now. Having 2 wood combustible structures that close together on 2 different properties is another reason why I denied Mr. Davis' application. Bill Marshall asked if the deck was already built. Scott Buzan stated that it has not already been built. Bill Marshall stated that the one thing that really stands out to him, is it looks like it conflicts with the service line that is feeding the residence. Looks like to me, that something would need to be done with that, for him to build the deck where he wants to build it. Scott Buzan stated that yes, that is correct and APS would require him to relocate the electric service. We would require approval from APS concerning this before he would be able to obtain the building permit.

The meeting was opened to public comment. Ben Davis opened up with his name and address and also stated that he is no longer requesting the 3.5 foot side setback and now only requesting the 13 foot rear setback. Chairman Don Ascoli asked Mr. Davis where the service line would now be coming from and going to. Mr. Davis stated that it would be going underground from the pole to a new electric service panel, but not under the new structure (deck). Scott Buzan stated that because of this change, the only issue at hand is the 13 foot rear setback and still, per the zoning ordinance, he would not be able to approve the rear setback for the same reasons he denied it when it included the 3.5 foot side property line setback, but the Board could look at the other factors, such as him and his brother owning the property to the East and with that property being so narrow, it is more than likely unbuildable, as a way for the Board to make a decision. Chairman Don Ascoli stated that for Mr. Davis to meet the rear property line setback, he would need to reduce the width of the deck from 20 feet to 13 feet. Again, Scott Buzan stated that Mr. Davis could encroach up to 10 feet with an open attached structure, but it is the little piece of enclosed structure that prevents this from happening. Ben Davis also stated that the piece of enclosed structure is now changing from 6 foot in width to 8 foot. Bill Marshall asked what the structure was being made out of and how far it was from the APS high voltage powerline. Ben Davis stated that the deck was being built out of wood and that APS moved the power pole from the middle of the easement out further, so it is now 50 feet from the structure. No other public comments. The public comment portion of the meeting was closed.

Chairman Don Ascoli stated that he was pleased to see Mr. Davis change the side property line setback to meet the zoning requirements and also pleased to see that the APS powerline pole was moved, so that there is no issue with the building department when they apply for their building permits. Scott Buzan stated that was correct. Chairman Don Ascoli stated that he had no problem with letting Mr. Davis go 7 feet into the rear property line setback. Bill Marshall agreed and stated that he thought all the major concerns had been addressed. Terry Otts also agreed and stated that he didn't have an issue with it either. Scott Buzan added that he would like to see, in the approval, a stipulation that the remaining portion of the patio cover that is encroaching, not be enclosed. Chairman Don Ascoli asked Mr. Davis if he had a problem with that and Mr. Davis did not.

Bill Marshall motioned to approve AV-17-10 with the stipulation that the remaining 32 feet of the structure can never be enclosed. The motion was seconded by Terry Otts. The motion was unanimously approved.

7. Adjournment. Chairman Don Ascoli made a motion to adjourn the meeting and Terry Otts seconded the motion. The motion to adjourn was unanimously approved at 9:45 A.M.